

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

MARK ANTHONY CHRISTIANS,

Plaintiff,

vs.

MICHAEL JOE HANVEY, Physician Assistant at SDSP-Jameson, in his individual and official capacity; KELLIE WASKO, Secretary of Corrections at South Dakota State, in her individual and official capacity; ALYSSA WELBIG, Nurse Practitioner at SDSP-Jameson, in her individual and official capacity; DAN SULLIVAN, Former Warden at SDSP-Jameson, in his individual and official capacity; ARAMARK CORRECTIONAL SERVICES, LLC, Contract Food Service Provider at SDSP-Jameson, in its individual and official capacity; SGT. STEVEN SWYGERT, Sgt. for SDSP/Jameson, in his individual and official capacity; RYAN HOWYE, Unit Coordinator at Jameson, in his individual and official capacity; TIMOTHY SCHNEIDER, Unit Manager at Jameson, in his individual and official capacity; MELISSA MATURAN, Administrative Remedy Coordinator at Jameson, in her individual and official capacity; TERESA BITTINGER, Warden at SDSP/Jameson, in her individual and official capacity; ANTHONY GRAHAM, Aramark Supervisor at Jameson, in his individual and official capacity; MARK, Aramark Supervisor at Jameson, in his individual and official capacity; IAN, Aramark Supervisor at Jameson, in his individual and official capacity; UNKNOWN DIETICIAN, Aramark Dietician for Jameson, in his or her individual and official capacity; C. IRIZARRY, Aramark Dietician, in his or her individual and official capacity; RAINY, Aramark Supervisor at Jameson, in his or her individual and official capacity; TODD IRVIN, Correctional Officer, in

4:23-CV-04137-LLP

ORDER DENYING PLAINTIFF'S FIRST
AND SECOND MOTIONS TO AMEND,
GRANTING PLAINTIFF'S THIRD
MOTION TO AMEND, AND GRANTING
PLAINTIFF'S MOTION TO ADD
DEFENDANTS

his individual and official capacity; CODY PAULSON, Correctional Officer, in his individual and official capacity; SUMMIT FOOD SERVICE, Food Service Provider at Jameson, in its individual and official capacity; JOHN TRIERWEILER, Summit District Manager, in his individual and official capacity; JESSICA WALDNER, Summit Dietician, in her individual and official capacity; TROY PONTO, Associate Warden, in his individual and official capacity; GASSON, Aramark Supervisor, in his or her individual and official capacity; and GRAY, Aramark Supervisor, in his or her individual and official capacity,

Defendants.

Plaintiff, Mark Anthony Christians, an inmate at the South Dakota State Penitentiary Jameson Annex, filed a pro se civil rights lawsuit under 42 U.S.C. § 1983. Doc. 1. Christians timely paid the full civil complaint filing fee. Christian filed three motions to amend his complaint, Docs. 5, 10, and 12, and one motion to add additional defendants, Doc. 13.¹

On December 13, 2023, Christians filed his first motion to amend his complaint, Doc. 5, and a first proposed amended complaint, Doc. 5-1. On March 29, 2024, Christians filed his second motion to amend his complaint, Doc. 10, and a second proposed amended complaint, Doc. 10-1. On July 3, 2024, Christians filed his third motion to amend his complaint, Doc. 12, and a third proposed amended complaint, Doc. 12-1. Under Federal Rule of Civil Procedure 15(a)(1), “[a] party may amend its pleading once as a matter of course no later than . . . 21 days after serving it, or . . . if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading” or motion. Christians filed his motions to amend within

¹ Christians also has several various motions pending, which this Court will rule on in a separate order. Docs. 4, 6, 7, 8. This Court will also issue a separate order screening Christians’ amended complaint.

the time limitation for amending as a matter of course under Rule 15(a)(1). “[A]n amended complaint supercedes [sic] an original complaint and renders the original complaint without legal effect.” *In re Atlas Van Lines, Inc.*, 209 F.3d 1064, 1067 (8th Cir. 2000) (citing *Washer v. Bullitt Cnty.*, 110 U.S. 558, 562 (1884)). Thus, Christians’ third motion to amend his complaint, Doc. 12, is granted. His first motion to amend his complaint, Doc. 5, and second motion to amend his complaint, Doc. 10, are denied as moot because the third proposed amended complaint supersedes the first and second proposed amended complaint. Christians’ amended complaint, Doc. 12-1, also supersedes his original complaint, Doc. 1, and renders his original complaint without legal effect. Christians also filed a motion to add defendants two additional defendants to his third proposed amended complaint, Doc. 13, which is granted.

In accordance with Rule 15 of the Federal Rules of Civil Procedure, Christians has been granted leave to amend as a matter of course. To further amend, Christians must get “the opposing party’s written consent or the court’s leave.” Fed. R. Civ. P. 15(a)(2).


Accordingly, it is ORDERED:

1. That Christians’ third motion to amend his complaint, Doc. 12, is granted. The Clerk of Court shall file Christians’ proposed amended complaint, Doc. 12-1.
2. That Christians’ first motion to amend his complaint, Doc. 5, is denied as moot.
3. That Christians’ second motion to amend his complaint, Doc. 10, is denied as moot.
4. That Christians’ motion to add defendants, Doc. 13, is granted.

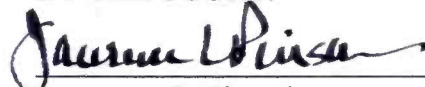
DATED July 16, 2024.

ATTEST:

MATTHEW W. THELEN, CLERK



BY THE COURT:



Lawrence L. Piersol

United States District Judge